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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,731	12/10/2003	Timothy M. Holub	306230	6694
33042	7590	08/15/2006	EXAMINER	
LEYDIG, VOIT & MAYER, LTD. (SEATTLE OFFICE) TWO PRUDENTIAL PLAZA SUITE 4900 CHICAGO, IL 60601-6780			YIP, WINNIE S	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/732,731	HOLUB, TIMOTHY M.	
	Examiner	Art Unit	
	Winnie Yip	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 May 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-31 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on May 22, 2006.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

1. Claims 21-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regard to claims 21-23 and 27-28, the term "is more vertical" is not clear whether the upper and lower pole segments of the "upright pole" are vertical as relative to what element. It causes the claims being vague and indefinite.

Regard to claim 28, the term "comprising two hubs" is inconsistent to the body of the claimed invention. It fails to further limit the subject matter of a previous claim 21 because claim 21 only claims "a hub", but not "at least one hub". It is an improper dependent form for failing to further limit the subject matter of a previous claim. Applicant should cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Regard to claim 30, the term "second structures" lacks a proper antecedent basis because it has not been defined in previous claims 21 and 29.

Clarification is required.

Claim Rejections - 35 USC § 103

2. Claim 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US Patent No. 5,732,726) in view of Lin et al. (US Patent No. 6,418,949).

Lee shows and teaches a shelter (10) comprising : a pole assembly comprising at least one hub (20 or 42), at least one horizontal pole (40) for connection between two hubs, a plurality of upright poles (24) each includes a lower pole segment (14) extending substantially vertical and an upper pole segment (16) angularly connected to the lower pole segment, the hub having a plurality of tubular members (50 or 60) with openings (54 or 64) and a locking slot formed on the tubular member therein, the upper pole segments of the upright pole and the horizontal pole each having an end being removaly and non-rotatably inserted and attached to the opening of hub respectively, and the slot of the tubular member receiving locking means formed on the end of the pole for removably and non-rotatably attached to the hub. Although Lee does not specifically define how the end of the pole being locked with the tubular member as claimed, Lin et al. teaches two tubular member having oblong cross sections with a flat portion that removably engage each other without rotation therebetween, and one of the tubular member having a spring engaging with a slot of another tubular member to form a non-rotatable interlocking the two tubular members together. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the shelter of Lee having the end of the pole and the tubular members of the hub having oblong cross sections with the ends of the poles having spring locking mechanism being in snapping fit into the slots formed on the tubular members of the hub as taught by Lin et al. for providing a removable attachment but non-rotatable connection between the hub and the poles.

3. Claim 21-27 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu (US Patent No. 5,884,646) in view of Lee (US Patent No. 5,328,286).

Lu shows and teaches a shelter (1) having a pole assembly comprising at least one hub (3), a plurality of upright poles (1) each includes a lower pole segment extending substantially vertical and an upper pole segment angularly connected to the lower pole segment by a bend joint (C), the hub (3) having a plurality of engaging holes, each the upper pole segments of the upright pole having an end having a joint being removably inserted into the engaging hole of the hub respectively for removably attaching the poles to the hub. Although Lu does not define the end of pole being removably attached to the hub in an non-rotatable manner, Lee teaches a shelter comprising a hub (1) having a plurality of openings (3) with an engaging step (4, 5), a plurality of poles (13) each having an end including a joint (2) having an inclined surface (7) and engaging rod (6) being removably inserted into the opening (3) and engaging the engaged step (4,5), therefore after an upper plate (8) covers the hub, the joint (2) of the end of the pole being attached to the hub with an non-rotatable manner, and the joint (2) of the end of the pole (13) and the end of the pole each having a oblong cross sections (16) being engaged each other in an non-rotatable manner. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the shelter of Lu having a hub having openings providing with steps to receive an inclined surface of a joint at the end of the pole, and the end of the pole and the joint having oblong cross-sections being non-rotatably attached together as taught by Lee for providing a removable attachment but non-rotatable connection between the hub and the poles.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ju '646 in view of Lee '286 as applied to claim 21 above, and further in view of Lee '726.

Although either Ju and Lee '286 do not define the shelter including two hubs, Lee '726 teaches, as old and known in the art, a shelter including two hubs, one horizontal pole (40) removably connected between two hubs (42). It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the shelter of Ju combined with Lee '286 having a horizontal pole connected between two hubs as taught by Lee '726 for providing a gable shelter with a larger area as desired.

Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Citation

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pui et al. '939 teach a portable structure comprising a plurality of poles and connecters having oblong cross-section being jointed together with a non-rotatable manner as similar to the claimed invention.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy
August 7, 2006